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09/819,264	03/28/2001	Satoru Ueda	450100-03087	2071

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EXAMINER
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ART UNIT	PAPER NUMBER
3625	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	09/819,264	UEDA, SATORU
	Examiner	Art Unit	
	Kalyan K. Deshpande	3625	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>25 February 2008</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
   closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-11</u> is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-11</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All   b)☐ Some * c)☐ None of:

   1.☐ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
      application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
   Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

1.   The following is a final office action in response to the applicant's arguments filed

February 25, 2008. Claims 1-11 are pending.

Response to Amendments

2.   Applicants' amendments to claims 1 and 9-11 are acknowledged.

Response to Arguments

3.   Applicants arguments submitted on February 25, 2008 have been fully

considered but are not found persuasive. Applicants argue that specific amended

limitations are not taught by references DeRafael and Chisholm. Examiner respectfully

disagrees and responses to the specific amended limitations are addressed in the

rejection below.

Claim Rejections - 35 USC § 112

4.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

5.   Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention.

        Claims 1-11 recite "said picture content has a profitable line to be applied when

said picture content is to be commercialized". It is unclear from this limitation and the

specification what exactly is being claimed. For the purposes of examination, Examiner

interprets this limitation to mean there is a profit attribute associated with the picture

content.

Claim Rejections - 35 USC § 103

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

7.   Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over De

Rafael (US 6529878) is view of Chisholm (US 5400248).

As per claims 1 and 9-11, De Rafael teaches:

a contents market research apparatus comprising:

contents introduction information storage means for storing content introduction

information for introducing said picture content to said pollee (see column 4 lines 10-

65; where advertisers display content introduction information to users. The

advertisements are contents introduction information and the picture content. A user

is prompted to answer information by selecting an advertisement, thereby making

the user a pollee. All information, including that of advertisement information and

polling information is stored in a database.);

contents introduction information sending means for sending said content

introduction information stored in said contents introduction information storage

means (see column 4 lines 10-65; where the system is a client/server network.

Information is sent via the internet to client users.),

contents polling information receiving means for receiving the contents polling

information that includes said polling information for said picture content (see column

4 lines 10-65; where pollee answers are received by the server. Advertisements
(picture contents) are sent to users through the internet and are received by client
computers.),

   contents polling information storage means for storing said contents polling
information received by means of said contents polling information receiving means
(see column 4 lines 10-65; where the polling information is stored in a database.),
and

   a display for displaying business profitability when said picture content is
commercialized on a display apparatus (see column 3 lines 28-44: the advertiser
views the demographic information of pollees enabling the user to deduct profitability
analysis information. This information is displayed to the user.)

   wherein personal information is counted, if included in the contents, and a
marketable field of the content is specified based on the counted result of the
personal information (see column 2 lines 47-55 and column 3, lines 7-15: "This
information may include, for example, the user's name, residence address, age, and
any other demographic information that an advertiser may wish to know about the
persons who view its advertisements. Whenever the user desires to view
advertisements, the user logs into the remote computer in a suitable manner that
identifies the user and allows the remote computer to determine the account
corresponding to that user" whereby personal information is obtained from the
pollees and it is used as criteria for additional questions and "In certain embodiments
of the invention, the questions may further be generated in response to the user's

demographics. For example, a certain question may be asked only if the user is under 30 years of age and answered "Yes" to the previous question. The algorithm ensures that the sequence of questions and answers, although dynamically generated, is finite in length. When the user responds to the final question of the sequence, the remote computer credits the user's account." Which makes it a marketable field of the content.);

    wherein advertisements are sent directly to the pollee based on the contents polling information and the personal information included in the contents polling information (see column 5 lines 52-67 and column 6 lines 44-63; where advertisements are directly sent to the pollee based on both information entered by the user and demographic information based on a pre-determined algorithm.);

    wherein said contents introduction information is classified into separate subdivisions as a function of subject matter (see column 6 lines 44-64; where the user selects advertisements and an algorithm determines the next question for the pollee to answer. The algorithm can be a complex structure or a basic decision tree. A decision tree is a network of nodes that subdivide a subject matter.);

    wherein said contents introduction information is sent to a contents polling apparatus of said pollee who is suitable for said subject matter (see column 5 lines 52-67 and column 6 lines 44-63; where advertisements are directly sent to the pollee based on information entered by the user, including personal and demographic information, and a pre-determined algorithm. For example, a user interested in tax information is presented with the appropriate questions and advertisements.);

wherein a result counted by said poll results counting means indicates the most

marketable picture content and said picture content is selected to be commercialized

based on the result (see column 7 lines 48-62; where in a statistical analysis of the

entered information determines the most marketable content. A statistical analysis

is the same as counting.); and

said content polling apparatus (see figure 2; where a computer is used for polling

means) comprising:

contents introduction information receiving means for receiving said content

introduction information sent by means of said contents introduction information

sending means (see column 4 lines 10-65; where pollee answers are received by

the server. Advertisements (picture contents) are sent to users through the internet

and are received by client computers.),

contents introduction information display means for displaying said content

introduction information (see column 4 line 10-65; where in the client/server setup,

advertisements (contents introduction information) is sent and displayed at a client

station.),

contents polling means for entering said polling information (see column 4 lines

10-65; where a user is enabled to enter polling information by selecting an

advertisement.), and

contents polling information sending means for sending said contents polling

information entered by said contents polling means (see column 4 lines 10-65;

where polled information is sent to the server for analysis and storage.).

De Rafael further teaches "poll result counting means for discriminately counting said contents polling information entered by a predetermined pollee and said contents polling information entered by said general pollee" (see column 4 lines 21-25: where statistical demographic information is compiled for the answers submitted by pollees.). De Raphael fails to explicitly teach the poll result counting is "determined before said content introduction information is opened to a general pollee". Chisholm, in an analogous art, teaches the poll result counting is "determined before said content introduction information is opened to a general pollee" (see Chisholm abstract; where the system is enabled to make the ability to vote conditional on the votes collected by specific individuals. As applied to the present invention, the specific individuals are the predetermined pollees.). The advantage of such a feature is that it enables the system to collect statistically sound data. It would have been obvious at the time of the invention to combine the feature of the poll result counting is "determined before said content introduction information is opened to a general pollee" taught by Chisholm to De Raphael in order to collect more statistically sound data.

De Rafael further fails to teach "a purchase intention on the basis of cost and a sales offer transmission request are included in the content pooling information". Examiner takes Official Notice that polling content contain a purchase intention based on cost and a sale offer. The advantage of such a feature is that it further collects information of interest to the system user. It would have been obvious, at the time of the invention, to one of ordinary skill in the art to modify De Rafael to include the feature of "a purchase intention on the basis of cost and a sales offer transmission request are

included in the content pooling information" in order to further collect information of

interest. Examiner further notes that although a specific prior art has been applied to

this limitation, all limitations reciting the information polled are non-functional descriptive

material that do not affect the functionality of the claimed invention. The recited method

steps would be performed the same regardless of the specific data. Further, the

structural elements remain the same regardless of the specific data. Thus, this

descriptive material will not distinguish the claimed invention from the prior art in terms

of patentability, *see In re Gulack, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir.*

1983); In re Lowry, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP. 2106.

As per claim 2, De Rafael teaches the content introduction information includes

said picture content (See Figures 1 and 2 where the advertisements are displayed for

the pollee).

As per claim 3, De Rafael teaches the contents introduction information sending

means sends the content introduction information that has been classified as a function

of subject matter (column 2, lines 60-64: "Alternatively, for example, the remote

computer may provide a directory or a keyword search engine that the user can use to

find an advertisement relating to certain subject matter that interests the user."

Whereby the directory is equivalent to a classified system with respect to subject

matter as it performs an identical function in substantially the same manner with

substantially the same results.).

As per claim 4, De Rafael teaches the contents polling information includes

personal information of said pollee (column 2, lines 47-55: "This information may

include, for example, the user's name, residence address, age, and any other demographic information that an advertiser may wish to know about the persons who view its advertisements. Whenever the user desires to view advertisements, the user logs into the remote computer in a suitable manner that identifies the user and allows the remote computer to determine the account corresponding to that user").

As per claim 5, De Rafael teaches the contents polling information includes the merchandise purchase intention information of said pollee to be activated when said content is commercialized (column 4, lines 56-65: "Advertiser 14 has an advertiser computer 22 that communicates with remote computer 16 via Internet 20. Advertiser 14 can establish a business relationship with processor 10 that allows advertiser 14 to store interactive advertisements 24 in database 20. In this exemplary embodiment, an interactive advertisement 24 includes a set of documents defined by the hypertext mark-up language (HTML), an algorithm for selecting the next document to display, and algorithms for computing statistics of interest to advertiser 14." Whereby providing statistical data of interest is equivalent to purchase intent.).

As per claim 6, De Rafael does not explicitly teach the predetermined pollee is provided a greater quantity of ballots than the general pollee. Chisholm teaches that it is known that the predetermined pollee is provided a greater quantity of ballots than the general pollee (see Chisholm column 5 lines 48-54: "All votes do not have to be weighted the same. If specified by the vote administrator, some votes may be weighted differently from each other. The default weighting of a vote is 1.0. If the vote administrator weights voter x's vote by the factor $W(x)$, 0.ltoreq.$W(x)$, then voter x's

vote will be treated as W(x) separate votes in final tabulations of all of the votes.).

Chisholm is an analogous art as it also teaches polling and voting. The advantage of this feature is that it enables advertisers to obtain information of greater statistical value by enabling the system adjust weights and ballots for specific demographic participants. It would have been obvious, at the time of the invention, to one of ordinary skill in the art at the time of the invention to combine the polling system of De Rafael with the weighting system of Chisholm to enable users to obtain information of greater statistical value, which is a goal of De Rafael (see column 1 lines 36-44).

As per claim 7, De Rafael teaches the poll result counting means generates business profitability as a function of the picture content (column 3, lines 34-45: "In other embodiments, the information may be statistical information that the remote computer computes in response to the answers and the user demographics. For example, an advertiser may wish to know the average age or the total number of persons of a certain gender, city of residence, political affiliation, or occupation, who viewed its advertisement, or similar demographic statistical information of all persons who answered "Yes" to a certain question or whose answers followed a certain predetermined pattern. Such information is highly useful to advertisers because it aids them in targeting their advertisements and responding to consumer preferences." Whereby the company uses the information to respond to customers' preferences such that they focus their products and advertising to meets the needs of customers and in turn increase their profitability.).

As per claim 8, De Rafael teaches the contents polling information includes the information indicating whether said pollee wants sales advertisements of merchandise (See Figure 3, (54) user selects advertisement).

Claims 9-11 recite the same limitations already addressed by the rejections of claims 1-8; therefore the same rejections apply to these claims.

Conclusion

8.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kalyan K. Deshpande whose telephone number is (571)272-5880. The examiner can normally be reached on M-F 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on (571) 272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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